

ESTTA Tracking number: **ESTTA701289**

Filing date: **10/09/2015**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Handle Only With Love, LLC
Granted to Date of previous extension	10/31/2015
Address	1629 Abbot Kinney Blvd Venice, CA 90291 UNITED STATES
Attorney information	Christopher A. DiSchino, Esq. DiSchino & Company, PLLC 1201 Brickell Avenue, Suite 600 Miami, FL 33131 UNITED STATES christopher@dischino.co Phone:305-416-4962

Applicant Information

Application No	86314157	Publication date	09/01/2015
Opposition Filing Date	10/09/2015	Opposition Period Ends	10/31/2015
Applicant	Kabushiki Kaisha Nibariki 2-13-11, Goten-yama Musashino - Shi Tokyo, JAPAN		

Goods/Services Affected by Opposition

Class 014. First Use: 0 First Use In Commerce: 0


All goods and services in the class are opposed, namely: Alarm clocks; badges, brooches, ingots, necklaces, and ornamental pins of precious metal; jewelry; personal ornaments of precious metal; tie clips; tie pins; watches; watch bands; jewelry cases of wood or plastic


Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)
Other	Lack of bona fide intent to use

Marks Cited by Opposer as Basis for Opposition

U.S. Application No.	86444462	Application Date	11/04/2014
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	H.O.W.L.
Design Mark	
Description of Mark	NONE
Goods/Services	Class 014. First use: First Use: 2010/05/20 First Use In Commerce: 2010/05/20 Jewelry

U.S. Application No.	86334461	Application Date	07/11/2014
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	HOWL		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 014. First use: First Use: 2010/05/20 First Use In Commerce: 2010/05/20 Jewelry		

Attachments	86444462#TMSN.png(bytes) 86334461#TMSN.png(bytes) Opposition of Howls Moving Castle - Final-signed-signed.pdf(270667 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Christopher DiSchino/
Name	Christopher A. DiSchino, Esq.
Date	10/09/2015

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

HANDLE ONLY WITH LOVE, LLC,)	
)	Serial Number: 86/314,157
)	
Opposer,)	MARK: HOWL’S MOVING CASTLE
v.)	Publication Date: September 1, 2015
)	
KABUSHIKI KAISHA NIBARIKI)	Opposition No. _____
CORPORATION)	
)	
Applicant.)	
)	

NOTICE OF OPPOSITION

HANDLE ONLY WITH LOVE, LLC, a Florida limited liability company (“Opposer”), having its principal place of business at 1629 Abbot Kinney, Venice, CA 90219, hereby opposes KABUSHIKI KAISHA NIBARIKI CORPORATION’s (“Applicant”) registration of the mark HOWL’S MOVING CASTLE that is the subject of U.S. Trademark Application Serial No. 86/314,157 (“Applicant’s Trademark”), published on September 1, 2015, and requests that registration of Applicant’s Trademark be refused solely with respect to International Class 014.

As grounds in support of its opposition, Opposer asserts as follows:

1. Opposer is the owner of U.S. Trademark Application Serial Nos. 86/334,461 and 86/444,462 (collectively, the “HOWL Trademarks”) both in International Class 014 for jewelry.
2. Opposer has continuously and extensively used the marks HOWL and H.O.W.L. in connection with its production and sale of jewelry, since at least as early as May 20, 2010 (“First Use Date”).

3. Opposer is a nationally acclaimed producer of high end, one of a kind jewelry and has advertised and promoted its goods and services under the HOWL Trademarks and has received significant publicity and recognition for such goods and services.
4. The HOWL Trademarks serve to identify and indicate the source of Opposer's goods and services to the consuming public and to distinguish Opposer's goods and services from those of others.
5. Additionally, as a result of Opposer's use and promotion of its HOWL Trademarks, those marks have become distinctive and are recognized by consumers. Opposer has established valuable goodwill in the HOWL Trademarks.
6. Accordingly, Opposer has priority based on its prior use of its HOWL Trademarks in the United States.
7. On April 20, 2010, Applicant initially filed an intent to use application to register the mark HOWL'S MOVING CASTLE in International Class 014 for "alarm clocks; badges, brooches, ingots, necklaces, and ornamental pins of precious metal; jewelry; personal ornaments of precious metal; tie clips; tie pins; watches; watch bands; jewelry cases of wood or plastic." This "intent-to-use" application was assigned Serial No. 85/018120 ("Original Application"). However, the Original Application was considered abandoned on August 11, 2014 due to Applicant's failure to timely submit a Statement of Use.
8. In light of the fact that no additional extensions of time were permitted to file a Statement of Use, Applicant merely submitted an identical, "intent-to-use" U.S. Trademark Application for HOWL'S MOVING CASTLE to replace the Original

Application (the “Replacement Application”). The Replacement Application was assigned U.S. Serial 86/314,157.

9. Upon information and belief, at the time Applicant filed the Replacement Application, Applicant did not have a *bona fide* intent to use the mark in commerce.
10. Applicant’s Replacement Application was published in the *Official Gazette* on September 1, 2015.
11. Applicant’s Replacement Application should not be granted registration because it failed to satisfy the requirements of Lanham Act Section 1(b) and related Trademark Rules and Regulations.
12. For the foregoing reasons, the registration sought by Applicant is contrary to the provisions of Section 2 of the Lanham Act and Opposer believes it would be damaged thereby.

WHEREFORE, Opposer respectfully requests that the registration of the mark shown in Application Serial No. 86/314,157, solely with respect to Class 014, be refused and that this Opposition be sustained in favor of Opposer.

Date: October 9, 2015

Respectfully submitted,



Christopher A. DiSchino. Esq.
Dischino & Company, PLLC
1201 Brickell Avenue, Suite 600
Miami, Florida 33131
Phone: 305-416-4962
christopher@dischino.co

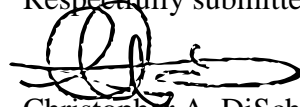
Attorney for Opposer,
HANDLE ONLY WITH LOVE, LLC

CERTIFICATE OF SERVICE

It is hereby certified that a true copy of the foregoing was served on Applicant by depositing same in the United States mail, first class, postage pre-paid, on this date, addressed to Applicant's counsel of record at 901 New York Avenue NW, Washington, DC 20001-4432 and a courtesy copy was sent to such counsel by email at docketing@finnegan.com.

Date: October 9, 2015

Respectfully submitted,

A handwritten signature in black ink, appearing to read "C. DiSchino", with a large, stylized "C" and a horizontal line extending to the right.

Christopher A. DiSchino